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13
14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION
17

18 MPH Technologies Oy,
19 Plaintiff,
20 v.
21 Apple Inc.,
22 Defendant.
23
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27
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Case No. 3:18-cv-05935-TLT

**DEFENDANT APPLE INC.'S
OBJECTIONS AND SECOND
SUPPLEMENTAL RESPONSES
TO PLAINTIFF MPH
TECHNOLOGIES OY'S FIRST
SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS
AND THINGS (NOS. 13-16, 43-45,
62, 81-84, AND 86-88)**

1 Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, the Northern District
2 of California Local Patent Rules, and any applicable local procedures, laws, or Court orders,
3 Defendant Apple Inc. supplements its responses to Plaintiff MPH Technologies Oy's ("MPH")
4 Requests for Production Nos. 13–16, 43–45, 62, 81–84, and 86–88 ("Requests").

5 **PRELIMINARY STATEMENT**

6 Apple's objections and responses to these Requests for Production are based on the facts
7 and information presently known and available to Apple. Statements below that Apple will
8 produce responsive documents that it locates pursuant to a reasonable search do not imply that
9 such documents exist. Discovery has recently begun and consequently, Apple may not have
10 identified all information responsive to the Requests at this time. As discovery in this action
11 proceeds, Apple may discover additional or different information or documents. Apple reserves
12 the right to later supplement or amend its answers and responses to these Requests throughout its
13 investigation pursuant to Federal Rule of Civil Procedure 26(e). Apple responds to the Requests
14 as it interprets and understands them. Apple reserves its right to supplement its responses if MPH
15 subsequently asserts an interpretation of any Request that differs from Apple's current
16 understanding.

17 Apple does not waive its right to object to the admissibility into evidence of any
18 information provided in response to MPH's Requests. Apple further does not waive the right to
19 raise all questions of authenticity, relevancy, materiality, and privilege for any purpose with
20 regard to the information provided in response to MPH's Requests, which may arise in any
21 subsequent proceeding and/or the trial of this or any other action. Moreover, the assertion by
22 Apple of various general and specific objections is not a waiver of other objections that might be
23 applicable or become so at some future time. Apple's responses are based on a search of
24 electronically stored information and physical documents as they are maintained in the normal
25 course of business. Apple will not search for or produce email outside of the procedures set forth
26 in the Parties' agreed-upon ESI order, which provides that "[g]eneral ESI production requests
27 under Federal Rules of Civil Procedure 34 and 45 shall not include email or other forms of
28 electronic correspondence." Apple will produce documents on a rolling basis.

OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS

1
2 1. Apple objects to the definition of “Defendant,” “Apple,” “You,” and “Your” as
3 overbroad, unduly burdensome, and seeking information that is irrelevant to, and not proportional
4 to the needs of, this case, to the extent they purport to refer to information about Apple personnel
5 who have no connection to the technology accused in MPH’s complaint or infringement
6 contentions, exceeding the scope and proportionality limitations of Federal Rule of Civil
7 Procedure 26(b)(1). In responding to the Requests, Apple interprets “Defendant,” “Apple,”
8 “You,” and “Your” to mean Apple Inc.

9 2. Apple objects to the definitions of “Document(s)” and “Thing(s)” to the extent
10 they are broader than the definitions provided by Federal Rule of Civil Procedure 34(a). Apple
11 further objects to the definition of “Document” to the extent it includes email or other forms of
12 electronic correspondence. Apple will not search for or produce email outside of the procedures
13 set forth in the Parties’ agreed-upon ESI order, which provides that “[g]eneral ESI production
14 requests under Federal Rules of Civil Procedure 34 and 45 shall not include email or other forms
15 of electronic correspondence.”

16 3. Apple objects to the definition of “Electronic data compilation” to the extent it
17 imposes on Apple a greater obligation than that which is required under the Federal Rules of Civil
18 Procedure and procedures set forth in the Parties’ agreed-upon ESI order.

19 4. Apple objects to the definition of “Communication” to the extent it imposes on
20 Apple a greater obligation than that which is required under the Federal Rules of Civil Procedure.
21 Apple further objects to the definition of “Communication” to the extent it includes email or other
22 forms of electronic correspondence. Apple will not search for or produce email outside of the
23 procedures set forth in the Parties’ agreed-upon ESI order.

24 5. Apple objects to the definition of “identify” and “locate” as overbroad and unduly
25 burdensome because it requires Apple to identify “each person who presently has custody of the
26 document or thing and of any copy thereof.”

27 6. Apple objects to the definition of “acts of a person” as overbroad and unduly
28 burdensome because it includes “the acts of directors, officers, owners, members, employees,

agents or attorneys acting on the person's behalf."

7. Apple objects to the definition of "Apple Products and Services" as seeking irrelevant information, overbroad, vague, and ambiguous. In responding to these Requests, Apple interprets "Apple Products and Services" to mean "encrypted messaging for use in iMessage, FaceTime, Handoff, Universal Clipboard, iPhone Cellular Call Relay, and iPhone Text Message Forwarding, and mobile VPN in the U.S. market versions of the accused Apple Devices."

8. Apple objects to the definition of "Apple Devices" as seeking irrelevant information, overbroad, unduly burdensome, and not proportional to the needs of the case to the extent it seeks information about products that are not accused of infringement and/or do not include encrypted messaging or mobile VPN technologies. In responding to these Requests, Apple interprets "Apple Devices" to mean U.S. market versions of the accused Apple Devices that include encrypted messaging for use in iMessage, FaceTime, Handoff, Universal Clipboard, iPhone Cellular Call Relay, and iPhone Text Message Forwarding, and mobile VPN.

9. Apple objects to Instruction No. 2 to the extent it imposes requirements on Apple beyond those already agreed to by the Parties as stated in Paragraph 8(e) of the Joint Case Management Statement (ECF No. 45).

10. Apple objects to Instruction Nos. 4 and 5 the extent they request Apple to search for and produce electronically stored information, including email, before the parties have negotiated an appropriate ESI order in accordance with the Scheduling Order. Apple will search for and produce such electronically stored information in accordance with the parties' ESI order once agreed to or as otherwise ordered by the Court.

RESPONSES TO REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 13:

Documents and things sufficient to show the differences among iOS8, iOS 9, iOS 10, iOS 11, iOS 12, iOS 13, iOS 14, iOS 15, and iOS 16 with respect to the Apple Products and Services.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

Apple incorporates its Objections to Definitions and Instructions as set forth above.

Apple further objects to this Request to the extent that it calls for information that falls within the

1 protection of the attorney-client privilege, the common interest or joint defense privilege, the
2 work-product doctrine, or any other applicable privilege, doctrine, or immunity. Apple will not
3 produce privileged documents responsive to this Request.

4 Apple further objects to this Request as vague and ambiguous with respect to
5 “differences.” Apple further objects to this Request as seeking irrelevant information, overly
6 broad, unduly burdensome, and not proportional to the needs of the case, including, without
7 limitation, in that it requests information about nine operating systems without limitation to the
8 accused encrypted messaging and mobile VPN technologies. Apple limits its response to this
9 Request to the accused encrypted messaging for use in iMessage, FaceTime, Handoff, Universal
10 Clipboard, iPhone Cellular Call Relay, and iPhone Text Message Forwarding and mobile VPN in
11 the U.S. market versions of the accused Apple Devices. Apple further objects to this Request as
12 seeking irrelevant information, overly broad, unduly burdensome, and not proportional to the
13 needs of the case, including, without limitation, in that the scope of the Request is not limited by
14 time or to the United States. Apple further objects to this Request as premature under Federal
15 Rules of Civil Procedure Rule 26(a)(2) and 26(b)(4) to the extent it seeks disclosure of
16 information that is within the scope of expert testimony or opinion, which Apple will provide in
17 accordance with the Scheduling Order. Apple further objects to this Request on the ground and to
18 the extent that it seeks documents in a manner different from how Apple maintains them in its
19 ordinary course of business. To the extent this Request requests anything other than what Apple
20 has agreed to produce, Apple objects that this Request seeks irrelevant information, and is overly
21 broad and unduly burdensome in that it is not relevant nor proportional to the needs of this case.

22 Subject to these objections, Apple responds as follows: Apple has produced source code
23 and technical documents sufficient to identify differences in the functionalities between versions
24 of Apple’s accused instrumentalities.

25 **REQUEST FOR PRODUCTION NO. 14:**

26 Documents and things sufficient to show any differences among iPadOS 13, iPadOS 14,
27 iPadOS 15, and iPadOS 16 with respect to the Apple Products and Services.
28

RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

Apple incorporates its Objections to Definitions and Instructions as set forth above. Apple further objects to this Request to the extent that it calls for information that falls within the protection of the attorney-client privilege, the common interest or joint defense privilege, the work-product doctrine, or any other applicable privilege, doctrine, or immunity. Apple will not produce privileged documents responsive to this Request.

Apple further objects to this Request as vague and ambiguous with respect to “differences.” Apple further objects to this Request as seeking irrelevant information, overly broad, unduly burdensome, and not proportional to the needs of the case, including, without limitation, in that it requests information about four operating systems without limitation to the accused encrypted messaging and mobile VPN technologies. Apple limits its response to this Request to the accused encrypted messaging for use in iMessage, FaceTime, Handoff, Universal Clipboard, iPhone Cellular Call Relay, and iPhone Text Message Forwarding and mobile VPN in the U.S. market versions of the accused Apple Devices. Apple further objects to this Request as seeking irrelevant information, overly broad, unduly burdensome, and not proportional to the needs of the case, including, without limitation, in that the scope of the Request is not limited by time or to the United States. Apple further objects to this Request as premature under Federal Rules of Civil Procedure Rule 26(a)(2) and 26(b)(4) to the extent it seeks disclosure of information that is within the scope of expert testimony or opinion, which Apple will provide in accordance with the Scheduling Order. Apple further objects to this Request on the ground and to the extent that it seeks documents in a manner different from how Apple maintains them in its ordinary course of business. To the extent this Request requests anything other than what Apple has agreed to produce, Apple objects that this Request seeks irrelevant information, and is overly broad and unduly burdensome in that it is not relevant nor proportional to the needs of this case.

Subject to these objections, Apple responds as follows: Apple has produced source code and technical documents sufficient to identify differences in the functionalities between versions of Apple’s accused instrumentalities.

REQUEST FOR PRODUCTION NO. 15:

Documents and things sufficient to show any differences among OS X Yosemite, OS X El Capitan, macOS Sierra, macOS High Sierra, macOS Mojave, macOS Catalina, macOS Big Sur, macOS Monterey, and macOS Ventura with respect to the Apple Products and Services.

RESPONSE TO REQUEST FOR PRODUCTION NO. 15:

Apple incorporates its Objections to Definitions and Instructions as set forth above. Apple further objects to this Request to the extent that it calls for information that falls within the protection of the attorney-client privilege, the common interest or joint defense privilege, the work-product doctrine, or any other applicable privilege, doctrine, or immunity. Apple will not produce privileged documents responsive to this Request.

Apple further objects to this Request as vague and ambiguous with respect to “differences.” Apple further objects to this Request as seeking irrelevant information, overly broad, unduly burdensome, and not proportional to the needs of the case, including, without limitation, in that it requests information about nine operating systems without limitation to the accused encrypted messaging and mobile VPN technologies. Apple limits its response to this Request to the accused encrypted messaging for use in iMessage, FaceTime, Handoff, Universal Clipboard, iPhone Cellular Call Relay, and iPhone Text Message Forwarding and mobile VPN in the U.S. market versions of the accused Apple Devices. Apple further objects to this Request as seeking irrelevant information, overly broad, unduly burdensome, and not proportional to the needs of the case, including, without limitation, in that the scope of the Request is not limited by time or to the United States.

Apple further objects to this Request as premature under Federal Rules of Civil Procedure Rule 26(a)(2) and 26(b)(4) to the extent it seeks disclosure of information that is within the scope of expert testimony or opinion, which Apple will provide in accordance with the Scheduling Order. Apple further objects to this Request on the ground and to the extent that it seeks documents in a manner different from how Apple maintains them in its ordinary course of business. To the extent this Request requests anything other than what Apple has agreed to

1 produce, Apple objects that this Request seeks irrelevant information, and is overly broad and
2 unduly burdensome in that it is not relevant nor proportional to the needs of this case.

3 Subject to these objections, Apple responds as follows: Apple has produced source code
4 and technical documents sufficient to identify differences in the functionalities between versions
5 of Apple's accused instrumentalities.

6 **REQUEST FOR PRODUCTION NO. 16:**

7 Documents and things sufficient to show the differences among Watch OS 2.0, 3.0, 4.0,
8 5.0, 6.0, 7.0, 8.0, and 9.0 with respect to the Apple Products and Services.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

10 Apple incorporates its Objections to Definitions and Instructions as set forth above.
11 Apple further objects to this Request to the extent that it calls for information that falls within the
12 protection of the attorney-client privilege, the common interest or joint defense privilege, the
13 work-product doctrine, or any other applicable privilege, doctrine, or immunity. Apple will not
14 produce privileged documents responsive to this Request.

15 Apple further objects to this Request as vague and ambiguous with respect to
16 "differences." Apple further objects to this Request as seeking irrelevant information, overly
17 broad, unduly burdensome, and not proportional to the needs of the case, including, without
18 limitation, in that it requests information about eight operating systems without limitation to the
19 accused encrypted messaging and mobile VPN technologies. Apple limits its response to this
20 Request to the accused encrypted messaging for use in iMessage, FaceTime, Handoff, Universal
21 Clipboard, iPhone Cellular Call Relay, and iPhone Text Message Forwarding and mobile VPN in
22 the U.S. market versions of the accused Apple Devices. Apple further objects to this Request as
23 seeking irrelevant information, overly broad, unduly burdensome, and not proportional to the
24 needs of the case, including, without limitation, in that the scope of the Request is not limited by
25 time or to the United States.

26 Apple further objects to this Request as premature under Federal Rules of Civil Procedure
27 Rule 26(a)(2) and 26(b)(4) to the extent it seeks disclosure of information that is within the scope
28 of expert testimony or opinion, which Apple will provide in accordance with the Scheduling

Order. Apple further objects to this Request on the ground and to the extent that it seeks documents in a manner different from how Apple maintains them in its ordinary course of business. To the extent this Request requests anything other than what Apple has agreed to produce, Apple objects that this Request seeks irrelevant information, and is overly broad and unduly burdensome in that it is not relevant nor proportional to the needs of this case.

Subject to these objections, Apple responds as follows: Apple has produced source code and technical documents sufficient to identify differences in the functionalities between versions of Apple's accused instrumentalities.

REQUEST FOR PRODUCTION NO. 43:

Documents and things sufficient to identify the location of all the servers and databases that support, enable, or provide the Apple Push Notification service ("APNs") or Apple Identity Service ("IDS") for U.S. users of iMessage, FaceTime, Handoff, Universal Clipboard, iPhone Cellular Call Relay, iPhone Text Message Forwarding, and encryption for Apple Watch apps with streaming data.

RESPONSE TO REQUEST FOR PRODUCTION NO. 43:

Apple incorporates its Objections to Definitions and Instructions as set forth above. Apple further objects to this Request to the extent that it calls for information that falls within the protection of the attorney-client privilege, the common interest or joint defense privilege, the work-product doctrine, or any other applicable privilege, doctrine, or immunity. Apple will not produce privileged documents responsive to this Request.

Apple further objects to this Request as vague and ambiguous as to "databases that support" and "users." Apple further objects to this Request as seeking irrelevant information, overly broad, unduly burdensome, and not proportional to the needs of the case, including, without limitation, in that it requests documents concerning "[a]ll the servers and databases" without limitation to the accused encrypted messaging and mobile VPN technologies. Apple limits its response to this Request to the accused encrypted messaging for use in iMessage, FaceTime, Handoff, Universal Clipboard, iPhone Cellular Call Relay, and iPhone Text Message Forwarding and mobile VPN in the U.S. market versions of the accused Apple Devices. Apple

1 further objects to this Request on the ground and to the extent that it seeks documents in a manner
 2 different from how Apple maintains them in its ordinary course of business. To the extent this
 3 Request requests anything other than what Apple has agreed to produce, Apple objects that this
 4 Request seeks irrelevant information, and is overly broad and unduly burdensome in that it is not
 5 relevant nor proportional to the needs of this case.

6 Subject to these objections, Apple responds as follows: Apple has made available on the
 7 source code review machine documents and configuration files located after a reasonable and
 8 diligent search that are responsive to this request.

9 **REQUEST FOR PRODUCTION NO. 44:**

10 Documents and things sufficient to identify the owner and operator of all the servers and
 11 databases that support, enable, or provide the Apple Push Notification service (“APNs”) or Apple
 12 Identity Service (“IDS”) for U.S. users of iMessage, FaceTime, Handoff, Universal Clipboard,
 13 iPhone Cellular Call Relay, iPhone Text Message Forwarding, and encryption for Apple Watch
 14 apps with streaming data.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 44:**

16 Apple incorporates its Objections to Definitions and Instructions as set forth above.
 17 Apple further objects to this Request to the extent that it calls for information that falls within the
 18 protection of the attorney-client privilege, the common interest or joint defense privilege, the
 19 work-product doctrine, or any other applicable privilege, doctrine, or immunity. Apple will not
 20 produce privileged documents responsive to this Request.

21 Apple further objects to this Request as vague and ambiguous as to “databases that
 22 support” and “users.” Apple further objects to this Request as seeking irrelevant information,
 23 overly broad, unduly burdensome, and not proportional to the needs of the case, including,
 24 without limitation, in that it requests documents concerning “[a]ll the servers and databases”
 25 without limitation to the accused encrypted messaging and mobile VPN technologies. Apple
 26 limits its response to this Request to the accused encrypted messaging for use in iMessage,
 27 FaceTime, Handoff, Universal Clipboard, iPhone Cellular Call Relay, and iPhone Text Message
 28 Forwarding and mobile VPN in the U.S. market versions of the accused Apple Devices. Apple

1 further objects to this Request on the ground and to the extent that it seeks documents in a manner
 2 different from how Apple maintains them in its ordinary course of business. To the extent this
 3 Request requests anything other than what Apple has agreed to produce, Apple objects that this
 4 Request seeks irrelevant information, and is overly broad and unduly burdensome in that it is not
 5 relevant nor proportional to the needs of this case.

6 Subject to these objections, Apple responds as follows: Apple has not located documents
 7 responsive to this request after a reasonable and diligent search.

8 **REQUEST FOR PRODUCTION NO. 45:**

9 Agreements relating to ownership, operation, or control of all the servers and databases
 10 that support, enable, or provide the Apple Push Notification service (“APNs”) or Apple Identity
 11 Service (“IDS”) for U.S. users of iMessage, FaceTime, Handoff, Universal Clipboard, iPhone
 12 Cellular Call Relay, iPhone Text Message Forwarding, and encryption for Apple Watch apps with
 13 streaming data.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 45:**

15 Apple incorporates its Objections to Definitions and Instructions as set forth above.
 16 Apple further objects to this Request to the extent that it calls for information that falls within the
 17 protection of the attorney-client privilege, the common interest or joint defense privilege, the
 18 work-product doctrine, or any other applicable privilege, doctrine, or immunity. Apple will not
 19 produce privileged documents responsive to this Request.

20 Apple further objects to this Request as vague and ambiguous as to “control,” “databases
 21 that support,” and “users.” Apple further objects to this Request as seeking irrelevant
 22 information, overly broad, unduly burdensome, and not proportional to the needs of the case,
 23 including, without limitation, in that it requests documents concerning “[a]ll the servers and
 24 databases” without limitation to the accused encrypted messaging and mobile VPN technologies.
 25 Apple limits its response to this Request to the accused encrypted messaging for use in iMessage,
 26 FaceTime, Handoff, Universal Clipboard, iPhone Cellular Call Relay, and iPhone Text Message
 27 Forwarding and mobile VPN in the U.S. market versions of the accused Apple Devices. Apple
 28 further objects to this Request on the ground and to the extent that it seeks documents in a manner

different from how Apple maintains them in its ordinary course of business. To the extent this Request requests anything other than what Apple has agreed to produce, Apple objects that this Request seeks irrelevant information, and is overly broad and unduly burdensome in that it is not relevant nor proportional to the needs of this case.

Subject to these objections, Apple responds as follows: Apple has not located documents responsive to this request after a reasonable and diligent search.

REQUEST FOR PRODUCTION NO. 62:

Documents and things sufficient to show how Apple uses iMessage, FaceTime, Handoff, Universal Clipboard, iPhone Cellular Call Relay, iPhone Text Message Forwarding, and encryption for Apple Watch apps with streaming data for its own business use.

RESPONSE TO REQUEST FOR PRODUCTION NO. 62:

Apple incorporates its Objections to Definitions and Instructions as set forth above. Apple further objects to this Request to the extent that it calls for information that falls within the protection of the attorney-client privilege, the common interest or joint defense privilege, the work-product doctrine, or any other applicable privilege, doctrine, or immunity. Apple will not produce privileged documents responsive to this Request.

Apple further objects to this Request as vague and ambiguous with respect to “how Apple uses” and “business use.” Apple further objects to this Request because any documents concerning Apple’s “business use” is not relevant to any party’s claim or defense. Apple further objects to this Request as seeking irrelevant information, overly broad, unduly burdensome, and not proportional to the needs of the case, including, without limitation, to the extent it requests documents without limitation to the accused encrypted messaging and mobile VPN technologies. Apple limits its response to this Request to the accused encrypted messaging for use in iMessage, FaceTime, Handoff, Universal Clipboard, iPhone Cellular Call Relay, and iPhone Text Message Forwarding and mobile VPN in the U.S. market versions of the accused Apple Devices. To the extent this Request requests anything other than what Apple has agreed to produce, Apple objects that this Request seeks irrelevant information, and is overly broad and unduly burdensome in that it is not relevant nor proportional to the needs of this case.

1 Subject to these objections, Apple responds as follows: Apple has not located documents
2 responsive to this request after a reasonable and diligent search.

3 **REQUEST FOR PRODUCTION NO. 81:**

4 All documents and things supporting or otherwise relating to Apple's denial of paragraph
5 95 of the Complaint that "Apple's 'Always-on VPN' is a feature provided by Apple which forces
6 applications running on Apple devices to connect only via an VPN tunnel."

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 81:**

8 Apple incorporates its Objections to Definitions and Instructions as set forth above.
9 Apple further objects to this Request to the extent that it calls for information that falls within the
10 protection of the attorney-client privilege, the common interest or joint defense privilege, the
11 work-product doctrine, or any other applicable privilege, doctrine, or immunity. Apple will not
12 produce privileged documents responsive to this Request.

13 Apple further objects to this Request as vague and ambiguous with respect to
14 "Complaint," "forces," "connect," and "VPN tunnel." In responding to this Request, Apple
15 interprets "Complaint" to mean MPH's Complaint, dated September 27, 2018. (ECF No. 1.) To
16 the extent this Request requests anything other than what Apple has agreed to produce, Apple
17 objects that this Request seeks irrelevant information, and is overly broad and unduly burdensome
18 in that it is not relevant nor proportional to the needs of this case.

19 Subject to these objections, Apple responds as follows: Apple has produced
20 non-privileged documents located after a reasonable and diligent search that are responsive to this
21 request.

22 **REQUEST FOR PRODUCTION NO. 82:**

23 Documents and things sufficient to show and describe how Apple Devices and operating
24 systems support and enable Always On VPN.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 82:**

26 Apple incorporates its Objections to Definitions and Instructions as set forth above.
27 Apple further objects to this Request to the extent that it calls for information that falls within the
28 protection of the attorney-client privilege, the common interest or joint defense privilege, the

1 work-product doctrine, or any other applicable privilege, doctrine, or immunity. Apple will not
2 produce privileged documents responsive to this Request.

3 Apple further objects to this Request to the extent it seeks information that is publicly
4 available or equally available to MPH. Apple further objects to this Request as seeking irrelevant
5 information, overly broad, unduly burdensome, and not proportional to the needs of the case,
6 including, without limitation, in that it requests documents without limitation to mobile VPN
7 technologies. Apple limits its response to this Request to mobile VPN in the U.S. market
8 versions of the accused Apple Devices. To the extent this Request requests anything other than
9 what Apple has agreed to produce, Apple objects that this Request seeks irrelevant information,
10 and is overly broad and unduly burdensome in that it is not relevant nor proportional to the needs
11 of this case.

12 Subject to these objections, Apple responds as follows: Apple has produced
13 non-privileged documents located after a reasonable and diligent search that are responsive to this
14 request.

15 **REQUEST FOR PRODUCTION NO. 83:**

16 Documents and things sufficient to show the protocol operation and message/packet
17 exchanges in Always On VPN including when tunnels are set up for each active IP interface (one
18 tunnel for the cellular interface and one tunnel for the Wi-Fi interface), and when a preferred
19 VPN tunnel on Wi-Fi is lost and traffic is routed to the VPN tunnel on cellular, as well as all
20 updates thereto in every iOS/iPadOS since Always On VPN was introduced.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 83:**

22 Apple incorporates its Objections to Definitions and Instructions as set forth above.
23 Apple further objects to this Request to the extent that it calls for information that falls within the
24 protection of the attorney-client privilege, the common interest or joint defense privilege, the
25 work-product doctrine, or any other applicable privilege, doctrine, or immunity. Apple will not
26 produce privileged documents responsive to this Request.

27 Apple further objects to this Request as vague and ambiguous with respect to
28 “message/packet exchanges,” “tunnels,” and “active IP interface.” Apple further objects to this

1 Request to the extent it seeks information that is publicly available or equally available to MPH.
2 Apple further objects to this Request as seeking irrelevant information, overly broad, unduly
3 burdensome, and not proportional to the needs of the case, including, without limitation, in that it
4 requests documents without limitation to mobile VPN technologies. Apple limits its response to
5 this Request to mobile VPN in the U.S. market versions of the accused Apple Devices. To the
6 extent this Request requests anything other than what Apple has agreed to produce, Apple objects
7 that this Request seeks irrelevant information, and is overly broad and unduly burdensome in that
8 it is not relevant nor proportional to the needs of this case.

9 Subject to these objections, Apple responds as follows: Apple has produced
10 non-privileged documents located after a reasonable and diligent search that are responsive to this
11 request.

12 **REQUEST FOR PRODUCTION NO. 84:**

13 Documents and things sufficient to show and describe any testing by Apple of the Always
14 On VPN capability of its iOS and iPadOS software, including testing during product
15 development.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 84:**

17 Apple incorporates its Objections to Definitions and Instructions as set forth above.
18 Apple further objects to this Request to the extent that it calls for information that falls within the
19 protection of the attorney-client privilege, the common interest or joint defense privilege, the
20 work-product doctrine, or any other applicable privilege, doctrine, or immunity. Apple will not
21 produce privileged documents responsive to this Request.

22 Apple further objects to this Request as seeking irrelevant information, overly broad,
23 unduly burdensome, and not proportional to the needs of the case, including, without limitation,
24 in that it requests documents without limitation to mobile VPN technologies. Apple limits its
25 response to this Request to mobile VPN in the U.S. market versions of the accused Apple
26 Devices.

1 Subject to these objections, Apple responds as follows: Apple has produced
2 non-privileged documents located after a reasonable and diligent search that are responsive to this
3 request.

4 **REQUEST FOR PRODUCTION NO. 86:**

5 Development documentation, network diagrams, engineering reports, specifications, and
6 testing reports relating to Apple's Always On VPN capability.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 86:**

8 Apple incorporates its Objections to Definitions and Instructions as set forth above.
9 Apple further objects to this Request to the extent that it calls for information that falls within the
10 protection of the attorney-client privilege, the common interest or joint defense privilege, the
11 work-product doctrine, or any other applicable privilege, doctrine, or immunity. Apple will not
12 produce privileged documents responsive to this Request.

13 Apple further objects to this Request as vague and ambiguous with respect to
14 "[d]evelopment documentation," and "network diagrams." Apple further objects to this Request
15 as seeking irrelevant information, overly broad, unduly burdensome, and not proportional to the
16 needs of the case, including, without limitation, in that it requests documents without limitation to
17 mobile VPN technologies. Apple limits its response to this Request to mobile VPN in the U.S.
18 market versions of the accused Apple Devices. To the extent this Request requests anything other
19 than what Apple has agreed to produce, Apple objects that this Request seeks irrelevant
20 information, and is overly broad and unduly burdensome in that it is not relevant nor proportional
21 to the needs of this case.

22 Subject to these objections, Apple responds as follows: Apple has produced
23 non-privileged documents located after a reasonable and diligent search that are responsive to this
24 request.

25 **REQUEST FOR PRODUCTION NO. 87:**

26 Document and things sufficient to show how VPN clients on Apple Devices configured
27 for Always On VPN detect whether VPN tunnels are up and/or available for use.

28 **RESPONSE TO REQUEST FOR PRODUCTION NO. 87:**

Apple incorporates its Objections to Definitions and Instructions as set forth above. Apple further objects to this Request to the extent that it calls for information that falls within the protection of the attorney-client privilege, the common interest or joint defense privilege, the work-product doctrine, or any other applicable privilege, doctrine, or immunity. Apple will not produce privileged documents responsive to this Request.

Apple further objects to this Request as vague and ambiguous with respect to “VPN clients” and “VPN tunnels.” Apple further objects to this Request as seeking irrelevant information, overly broad, unduly burdensome, and not proportional to the needs of the case, including, without limitation, in that it requests documents without limitation to mobile VPN technologies. Apple limits its response to this Request to mobile VPN in the U.S. market versions of the accused Apple Devices. To the extent this Request requests anything other than what Apple has agreed to produce, Apple objects that this Request seeks irrelevant information, and is overly broad and unduly burdensome in that it is not relevant nor proportional to the needs of this case.

Subject to these objections, Apple responds as follows: Apple has produced non-privileged documents located after a reasonable and diligent search that are responsive to this request.

REQUEST FOR PRODUCTION NO. 88:

Documents and things sufficient to show how VPN clients on Apple Devices configured for Always On VPN route traffic to VPN channels including how they select which VPN channel to route traffic to when more than one VPN channel exists.

RESPONSE TO REQUEST FOR PRODUCTION NO. 88:

Apple incorporates its Objections to Definitions and Instructions as set forth above. Apple further objects to this Request to the extent that it calls for information that falls within the protection of the attorney-client privilege, the common interest or joint defense privilege, the work-product doctrine, or any other applicable privilege, doctrine, or immunity. Apple will not produce privileged documents responsive to this Request.

1 Apple further objects to this Request as vague and ambiguous with respect to “VPN
2 clients,” “route traffic,” and “VPN channel.” Apple further objects to this Request as seeking
3 irrelevant information, overly broad, unduly burdensome, and not proportional to the needs of the
4 case, including, without limitation, in that it requests documents without limitation to mobile
5 VPN technologies. Apple limits its response to this Request to mobile VPN in the U.S. market
6 versions of the accused Apple Devices. To the extent this Request requests anything other than
7 what Apple has agreed to produce, Apple objects that this Request seeks irrelevant information,
8 and is overly broad and unduly burdensome in that it is not relevant nor proportional to the needs
9 of this case.

10 Subject to these objections, Apple responds as follows: Apple has produced
11 non-privileged documents located after a reasonable and diligent search that are responsive to this
12 request.

13
14 Dated: April 2, 2024

MORRISON & FOERSTER LLP

15
16
17 By: /s/ Ryan J. Malloy
Ryan J. Malloy

18 Attorneys for Defendant
19 APPLE INC.
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CERTIFICATE OF SERVICE

I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is 707 Wilshire Boulevard, Los Angeles, California 90017-3543. I am not a party to the within cause, and I am over the age of eighteen years.

I further declare that on April 2, 2024, I served a copy of:

**DEFENDANT APPLE INC.'S SECOND SUPPLEMENTAL OBJECTIONS
AND RESPONSES TO PLAINTIFF MPH TECHNOLOGIES OY'S FIRST
SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND
THINGS (NOS. 13-16, 43-45, 62, 81-84, AND 86-88)**

☒ **BY ELECTRONIC SERVICE [Fed. Rule Civ. Proc. rule 5(b)]** by electronically mailing a true and correct copy through Morrison & Foerster LLP's electronic mail system to the e-mail address(es) set forth below, or as stated on the attached service list per agreement in accordance with Federal Rules of Civil Procedure rule 5(b).

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I declare under penalty of perjury that the foregoing is true and correct.

Executed at Los Angeles, California, this, 2nd day of April, 2024.

Silvia Specht
(typed)

/s/ Silvia Specht
(signature)